

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD**

MIL-CON ELECTRIC COMPANY

and

Case 12-CA-26611

**INTERNATIONAL BROTHERHOOD OF
ELECTRICAL WORKERS, LOCAL 756**

ORDER¹

The Employer's petition to revoke subpoena duces tecum B-563326 is denied.² The subpoena seeks information relevant to the matters under investigation and describes with sufficient particularity the evidence sought, as required by Section 11(1) of the Act and Section 102.31(b) of the Board's Rules and Regulations. Further, the Employer has failed to establish any other legal basis for revoking the subpoenas. See generally, *NLRB v. North Bay Plumbing*,

¹ The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

² Member Hayes would grant the petition, and revoke the subpoena to the extent it purports to require the production of documents at any particular location, including the Regional Office. In his view, Sec. 11(1) only requires a party subject to an otherwise valid investigatory subpoena to produce documents for inspection and copying at the site where such documents are maintained. It does not, in the course of an unfair labor practice investigation, require a party, over its objection, to produce such documents at any other place, including the Regional Office. Absent such an obligation, the fact that the Region offered the Employer a putative accommodation permitting delivery of the documents at the Board's Jacksonville office, instead of its Tampa office, is irrelevant. To the extent that *EEOC v. Maryland Cup Corp.*, 785 F.2d 471, 476-477 (4th Cir. 1986), cert denied 479 U.S. 815 (1986), holds to the contrary, Member Hayes respectfully disagrees.

Inc., 102 F.3d 1005 (9th Cir. 1996); *NLRB v. Carolina Food Processors, Inc.*, 81 F.3d 507 (4th Cir. 1996).³

Dated, Washington, D.C., September 17, 2010.

WILMA B. LIEBMAN,	CHAIRMAN
MARK GASTON PEARCE	MEMBER
BRIAN E. HAYES	MEMBER

³ Contrary to our dissenting colleague, the Employer must produce documents at the location specified in the subpoena, not simply to permit access to documents at a location of the Employer's own choosing. See *EEOC v. Maryland Cup Corp.*, 785 F.2d 471, 476-477 (4th Cir. 1986), cert denied 479 U.S. 815 (1986) (Sec. 11 of the National Labor Relations Act authorizes that documents are to be delivered to the government's office). We also note that the Region has offered various alternatives to the Employer in lieu of producing the documents at the Board's Tampa regional office, including production of documents at the Board's nearby resident office in Jacksonville, as well as offering other alternative accommodations to the Employer.

The Region stated in its opposition brief that it will modify paragraphs 2 and 3 of the subpoena to seek only "such personnel records and other documents..." as opposed to "all personnel records and other documents...." In considering the petition to revoke, we have reviewed the subpoena as being modified as stated by the Region.